

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

FREDERICK A EVANS,

Plaintiff,

VS.

REBECCA TAMEZ,

Defendant.

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CIVIL ACTION NO. C-11-317

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION TO
GRANT RESPONDENT'S MOTION TO DISMISS**

Pending before the Court is Respondent's Motion to Dismiss (D.E. 20), filed March 2, 2012. Petitioner did not respond to the Motion and on April 12, 2012, United States Magistrate Judge Brian L. Owsley issued a Memorandum and Recommendation (D.E. 21), recommending that Respondent's Motion to Dismiss be granted. After obtaining an extension of time to respond to the Memorandum and Recommendation, Petitioner timely filed his Objections (D.E. 24) on June 11, 2012.

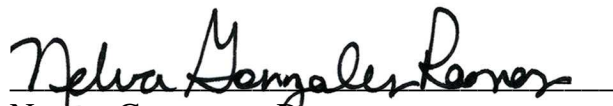
Petitioner first appears to suggest that he has a contractual relationship with the prison system and its disciplinary program and that the warden has breached an express or implied contract or a duty of good faith and fair dealing. This briefing reflects a fundamental misunderstanding of our penal system and, to the extent it states an objection to the Memorandum and Recommendation, it is **OVERRULED**.

Petitioner next reasserts his equal protection challenge, naming three fellow inmates who engaged in the same disciplinary infraction, but allegedly received lesser

punishments. Petitioner still has not stated that he is a member of an “identifiable group” as required to enforce rights under the equal protection provisions of the Constitution. *Woods v. Edwards*, 51 F.3d 577, 580 (5th Cir. 1995) (per curiam). Because the courts are empowered to remedy discrimination only when practiced against certain identifiable groups, the equal protection clause of the Constitution does not apply to Petitioner’s claim. Petitioner’s objection to the equal protection holding is **OVERRULED**.

Having reviewed the findings of fact, conclusions of law, and recommendations set forth in the Magistrate Judge’s Memorandum and Recommendation, as well as Petitioner’s Objections, and all other relevant documents in the record, and having made a *de novo* disposition of the portions of the Magistrate Judge’s Memorandum and Recommendation to which objections were specifically directed, the Court **OVERRULES** Petitioner’s Objections and **ADOPTS** as its own the findings and conclusions of the Magistrate Judge. Accordingly, Respondent’s Motion to Dismiss (D.E. 20) is **GRANTED** and this action is **DISMISSED WITH PREJUDICE**.

ORDERED this 13th day of June, 2012.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE